

(Report provided as text only)

U.S. Department of Housing and Urban Development
Los Angeles Field Office, Region IX
611 W. 6th Street, Suite 1120
Los Angeles, CA 90017

February 26, 2010

Mr. Chris Westlake, Deputy Director
Department of Housing and Community Development
Division of Financial Assistance
Federal Programs Branch
Home Investment Partnerships Program
1800 Third Street, Suite 390-3
PO Box 952054
Sacramento, CA 94252-2054

Dear Mr. Westlake:

On August 10 -11, 2009, the staff of the San Francisco Office of Labor Relations, conducted a monitoring review of your agency. The enclosed monitoring report provides the evaluation of your agency's performance in the areas listed in the report. Based on the information reviewed, we find that your agency's overall labor standards system and performance is adequate, however, there are several recommendations outlined in the report. Carol Clark, Regional Labor Relations Officer discussed these recommendations with your Housing and Community Development staff.

If you disagree with any of the conclusions in this report, you should notify me in writing. Your response should explain what you disagree with and why, and provide evidence supporting your position. We are available to provide technical assistance to resolve any concerns or recommendations noted in this report.

If you have any questions concerning this review or other matters pertaining to Federal labor standards, please contact me at (213) 534-2465.

Sincerely,

(Original Signed: Gwendolyn P. Tolbert)

Gwendolyn P. Tolbert
Director, Labor Relations

Enclosure

cc: Tom Bettencourt, Branch Chief

FEDERAL LABOR STANDARDS MONITORING REPORT
State of California
Department of Housing and community Development

COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS

August 10-11, 2009

SUMMARY

This is the first review conducted at the, State of California since 2000. The Office of Labor Relations (OLR) completed a full review of the State of California Department of Housing and Community Development, CDBG and HOME programs relative to the administration and enforcement of Federal labor standards. The purpose of the on-site visit was two-fold, introduction of new staff and to conduct a limited review of program records. The Office of Labor Relations examined documents provided by the State of California regarding construction projects carried out by the local sub recipients of the State funding as listed below. These documents included the following: an assessment of the effectiveness of the state's administration of their Labor compliance programs, the recipients administration and compliance to labor standards enforcement, employee interviews; certified payroll records; contract and program file documents; 5.7 Labor Standards Reports and the reports to the State compiled and submitted to HUD, the State Semi-Annual Labor Standards Enforcement Reports.

The following limited contracts were selected for review:

<u>Project Name</u>	<u>Project Number</u>	<u>Wage Decision</u>
Sunflower Gardens	08-STBG-4835	CA070013 Dated 4/6/07
Alder Drive	HOME	CA20070030 dated 8/3/07
Clearlake Oaks	05-HOME-2161	CA20080017 dated 7/25/08
Salado Orchard Apt	06-HOME-2405	CA200724 dated 2/9/07

OLR Staff Reviewers: Patchara Baumgartner, Contractor Industrial Relations Specialist
Irenis Green, Contractor Industrial Relations Specialist
Carol Clark, Regional Labor Relations Officer

HCD Staff Attendees: Chris Westlake, Division of Financial Assistance Deputy Director

Tom Bettencourt, Branch Chief
Federal Program Manager
Mimi Bettencourt, Program Manager

Mike Sokolow, HCD Auditor
Jim Woyce, HCD Auditor

Marc Firestone, HOME Program Labor Compliance Officer
Jon Diedesch, CDBG Program Labor Compliance Officer

Overview:

The preliminary review was conducted on a limited number of projects that were subject to oversight by the State of California for compliance with the provisions of the Davis-Bacon Act, the Copeland Act, the Contract Work Hours and Safety Standards Act (CWHSSA), the Department of Labor (DOL) regulations Parts 1, 3, and 5.

Part I: Labor Standards Administration:

The overall responsibility of this activity falls under the local sub recipients and nonprofits that are awarded Program Funding through the State of California, Department of Housing and Community Development Marc Firestone and Jon Diedesch are the designated Labor Compliance Officers that handle all activities funded through Community Development Block Grant Program and HOME Programs. Other HCD staff within the State Agency has some involvement by conducting limited reviews of the recipient's activities and enforcement, thereby alerting the respective compliance officer of concerns or issues.

a. Bid documents, Contract Award, and construction start date:

Requirement: The State Agency LCO must ensure that the recipient includes applicable wage determination and labor standards provisions in all construction contract documents and bid documents.

Based on the limited review the State Agency program recipients are in compliance. Records show that the State is utilizing the Standard Form (SF) 308 Request for Wage Determination to document the review and issuance of the appropriate decision to the recipient. Wages are issued timely 10-day check is being performed by the recipient and confirmed in writing through the State's Program compliance officers Enforcement files, reflected the Prime Contractor's eligibility had been checked as required.

b. Wage Decisions and Additional Classifications

Wage Decisions are being obtained directly from the State Agency Program Labor Compliance Officers. As stated above, the HCD Labor Compliance Officers are utilizing the SF 308 Request for Wage Determination to document the scope of work and the decision issued by HCD/LCO for the project activities.

Additional Classifications are being requested through DOL National Office. The Office of Labor Relations was advised of a new contact person for DOL additional classifications requests. Labor Compliance Officers are to ensure that only the classification listed on the DOL General Decision is utilized in the contract, when it is necessary, the additional classification process is simple.

The local recipient should have the Prime Contractor request the contractor to submit their request on his/her letterhead, reflecting the following, proposed classification, proposed hourly rate and fringe if any; duties performed; the compliance/consultant for the local agency should then complete HUD form 4230A Report of Additional Classification and forward to either Marc or Jon for processing to DOL National Office.

The contact person to discuss your request is Gary Leachman at 202 693-0647; all HCD additional classification requests should be addressed to:

Mr. Terry Sullivan, Section Chief
Construction Wage Determinations
Department of Labor
Employment Standards Administration
Wage and Hour Division
200 Constitution Avenue, NW
Washington, DC 20210

Attention: Gary Leachman

Remember, only HCD Staff compliance officer can submit the HUD 4230A to DOL National Office.

c. Preconstruction Conference: The State Agency ensures that the recipients continue to conduct preconstruction conferences with contractors to discuss their responsibilities under the contract and submittal of certified payroll records.

d. Reporting Requirements: All required reports are submitted timely by the Agency. The semi-annual labor Standards Enforcement Reports covering October 1 to March 31, and April 1 to September 30 were submitted timely to HUD.

Recommendation No.1: The Office of Labor Relations is receiving the Semi Annual Enforcement Reports from both CBDG and HOME, however, the review did not show if all recipients receiving funding through the State's Programs are providing reports to the State. The Office of Labor Relations is suggesting that the respective Labor Compliance Officers prepare notification letters to the recipients requesting the report data for the respective reporting period. The state must make an attempt to achieve no less than 95% reporting including negative reports. Documents should be maintained by the state to show all actions.

This revised process will be reviewed during our next annual monitoring review in FY2010.

The Office of Labor Relations will forward to the State Agency, upon request, a copy of the Excel-program used by the Office of Labor relations that can be modified to assist the state in capturing data for the State Agency Semi Annual Enforcement Reports.

Part II: Labor Standards Enforcement

a. Certified Payroll Records Maintained by Sub recipients, Non-profits and Consultants for the local recipients

We found that the State of California HCD Labor Compliance Officers maintain enforcement through on-site monitoring construction progress from start through completion; and notification of issues referred to the compliance officers by other HCD staff on monitoring visits.

The State Agency developed a Monitoring checklist that includes the review of labor standards administration and enforcement activities. This checklist is utilized by HCD staff when conducting on-site Monitoring. The checklist covers the administration of labor standards and enforcement.

Recommendation No.2: The Office of Labor Relations recommends that the Labor Compliance Officers, CBDG and HOME review the checklist used by the HCD to ensure that all items covered in Exhibit 25 are covered in the checklist. Exhibit 25 is part of the Grant Agreement Handbook and was developed by CPD Headquarters to ensure CPD Staff is completing Exhibit 25 when conducting onsite Monitoring of local contracting agencies by sampling the enforcement of labor compliance.

It is crucial to ensure the compliance monitoring is strengthened especially with the use of ARRA funds. The U. S. Department of Labor, Western Region, Wage and Hour Division has the primary responsibility in enforcing labor standards administration and enforcement under ARRA funds. A special unit has been developed primarily to conduct and investigate non-compliance by contractors and local contracting agencies receiving ARRA funds.

Recommendation No. 3: We recommend the HCD Labor Compliance Officer develop an annual Monitoring Plan for CDBG and HOME recipients.

Part III: Staffing and Training

Staffing: It was determined that the State Agency has sufficient staff on board to handle the administration and enforcement of labor standards activities. The State has designated two full-time staff, Marc Firestone, and Jon Diedesch to handle all the administration and reporting of compliance to the Office of Labor Relations. The Staff is knowledgeable of labor standards administration and enforcement requirements.

The State Agency must return to the objective of conducting annual Training to their recipients of funds as it relates to Labor Standards Administration and Enforcement. In addition, the State Agency should redevelop their Labor Standard Administration Manual especially with the use of federal funds.

Recommendation No.4: HCD Labor Compliance Officers should develop an annual training plan for all recipients and possible include staff from the Office of Labor Relations and the U. S. Department of Labor.

Part IV. Technical Assistance to Clients

The U. S. Department of Labor will be taking the lead in conducting and reviewing local contracting agencies as it relates to ARRA funds. Bonnie Barnish, Regional Wage Specialist, and Rebecca Clark, Senior Advisor, DOL can assist your agency with questions and technical assistance.